IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE V.RAMKUMAR

MONDAY, THE 17TH DECEMBER 2007 / 26TH AGRAHAYANA 1929

Crl.Rev.Pet.No. 4506 of 2007()

CRA.504/2004 of ADDL. DISTRICT & SESSIONS FAST TRACK COURT (ADHOC), MAVELIKKARA

CC.424/2001 of JUDL.MAGISTRATE OF FIRST CLASS, KAYAMKULAM

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REVN. PETITIONER:

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1. KARUNAKARAN,S/O.KOCHURAMAN,AGED 68 YEARS,KARUNALAYAM,MALAMEL BHAGOM MURI,KEERIKKADU VILLAGE.

2. RUDRANI,W/O.KARUNAKARAN,-DO-

BY ADV. SRI.MILLU DANDAPANI

RESPONDENTS:

STATE OF KERALA (CRIME NO.181/2001 OF KAYAMKULAM POLICE STATION), REPRESENTED BY PUBLIC PROSECUTOR,HIGH COURT OF KERALA,ERNAKULAM.

BY ADV. SRI. K.S. SIVAKUMAR, PUBLIC PROSECUTOR

THIS CRIMINAL REVISION PETITION HAVING COME UP FOR ADMISSION ON 17/12/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

V. RAMKUMAR , J

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CRL.R.P. NO. 4506 of 2007

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Dated this the 17th day of December, 2007.

ORDER

The revision petitioners, who are husband and wife, were the accused in C.C.No. 424/2001 on the file of the Judicial First Class Magistrate, Kayamkulam. They were charge sheeted by the Sub Inspector of Police, Kayamkulam for offences punishable under Sections 447, 326 and 324 r/w Section 34 IPC.

2. The case of the prosecution can be summarised as follows:-

On 27.04.2001 at about 7 a.m. while PW1 was standing in front of his house along with other family members, A1 and A2 in prosecution of their common intention to voluntarily cause hurt to PW1 went there. A1 attacked PW1 with the handle of a hoe, a dangerous weapon and A2 attacked PW1 with a stick. On account of the assault jointly committed by A1 and A2, PW1 sustained fracture to both the bones of his right arm.

3. On the side of the prosecution 9 witnesses were examined as PWs 1 to 9 and 6 documents were got marked as Exts.P1 to P6.

4. The accused denied the incriminating circumstances put to them during their examination under Section 313(1)(b) Cr.P.C and maintained their innocence. On the side of the accused, one witness was examined as DW1 who is a neighbour.

5. The learned Magistrate after trial as per judgment dated 30.09.2004 found the revision petitioners guilty of the offences punishable under Sections 447, 324 and 326 r/w Section 34 IPC. For the conviction under Section 447 IPC, each of them was sentenced to simple imprisonment for one month. For the conviction under Section 324 IPC, each of the revision petitioners was sentenced to simple imprisonment for one year. For the conviction under Section 326 IPC, each of the revision petitioners was sentenced to simple imprisonment for three years and to pay a compensation of Rs.10,000/- under Section 357(3) Cr.P.C to PW1, the injured. On appeal filed as Crl. Appeal No. 504/2004 before the Additional Sessions Court, Mavelikkara, that court as per judgment dated 30.10.2007, confirmed the conviction but modified the sentence reducing imprisonment under Section 324 IPC to three months and reducing the imprisonment under

Section 326 IPC to six months. In all other respects the sentence imposed and the compensation ordered by the trial court was sustained. It is the said judgment which is assailed in this revision.

6. Even though the learned counsel appearing for the revision petitioner assailed on various grounds the conviction entered and the sentence passed against the revision petitioners, in as much as the conviction was recorded by the courts below after a careful evaluation of the oral and documentary evidence, this Court sitting in revision will be loath to interfere with the said conviction which is accordingly confirmed.

7. What now survives for consideration is the adequacy or otherwise of the sentence imposed on the revision petitioners. The parties are neighbours and there was some enemity existing between them even prior to occurrence which was the reason for the spiteful disposition of the parties. Considering the overall circumstances of the case, I do not think that the revision petitioners who are husband and wife, deserve penal servitude by way of incarceration. I am of the view that an appropriate

sentence of imprisonment till the rising of the court and a direction to compensate PW1, the injured, will meet the ends of justice. Accordingly, for their conviction under Sections 447, 324 and 326 r/w Section 34 IPC, each of the revision petitioners is directed to undergo imprisonment till the rising of the court. Each of them is also directed to pay a sum of Rs.15,000/- (Rupees fifteen thousand only) by way of compensation to PW1, the injured under Section 357(3) Cr.P.C. PW1 would thus be entitled to a sum of Rs.30000/- by way of compensation. On failure to pay the compensation within 45 days from today, the defaulting accused shall undergo simple imprisonment for three months by way of default sentence.

The revision is disposed of as above.

V. RAMKUMAR, JUDGE.

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